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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 8C20.1-200	
<p><u>CERTIFICATE OF EFS-WEB TRANSMISSION</u></p> <p>_____</p> <p>I hereby certify that this correspondence is being transmitted to the U.S. Patent and Trademark Office via EFS-Web on the date indicated below.</p> <p><u>/Michelle E. Kandcer/</u> <u>October 26, 2007</u></p> <p>Michelle E. Kandcer Date</p>		Application Number 10/742,153	Filed December 19, 2003
		First Named Inventor ENZMANN, Mark J.	
		Art Unit 2617	Examiner DESIR, Pierre Louis
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>54,207</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number _____</p>		<p><u>/Michelle E. Kandcer/</u> Signature</p> <p>Michelle E. Kandcer</p> <p>_____ Typed or printed name</p> <p>770.984.2300</p> <p>_____ Telephone number</p> <p><u>October 26, 2007</u></p> <p>_____ Date</p>	
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : ENZMANN Mark J.)	
)	
Serial No. 10/742,153)	Group Art Unit: 2617
)	
Filed: December 19, 2003)	Examiner: DESIR, Pierre Louis
)	
For: METHOD AND APPARATUS FOR)	
PROVIDING SEAMLESS CALL HANDOFF)	
BETWEEN NETWORKS THAT USE)	
DISSIMILAR TRANSMISSION ELEMENTS)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

October 26, 2007
Filed Electronically

Sir:

This is a Pre-Appeal Brief Request for further review. Please consider the remarks that follow. This Pre-Appeal Brief Request is filed with a Notice of Appeal and the requisite fee of \$510 for the Notice of Appeal. This Request is filed within three months of the date of the Final Office action, and thus no additional fees are believed to be due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment, to Deposit Account Number **501513**. If any further extension of time is necessary, please consider this a request therefor

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/Michelle E. Kandcer/
Michelle E. Kandcer

October 26, 2007
Date

Currently Pending Claims

Claims 12-17 remain pending in this application, as claims 1-11 were previously cancelled. As explained in more detail below, Applicant submits that all claims are in condition for allowance and respectfully requests such action.

The Claim Rejections under 35 U.S.C. § 102(e) are Improper

Claims 12 – 17 stand rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 7,009,952 of *Razavilar et al.* This rejection is erroneous and cannot be sustained.

Independent claim 12 recites, “An 802.1x network comprising: an access point; and a server, the server comprising logic configured to determine when a call handoff switch from the 802.1x network to a cellular network is to occur and to communicate with a media gateway to cause the call handoff switch to occur.”

Independent claim 13 recites, “A cellular network comprising: call handoff circuitry configured to determine when a call handoff switch from an 802.1x network to the cellular network is to occur and to communicate with a media gateway to cause the call handoff to occur.”

Independent claim 14 recites, “A server in communication with a media gateway, the server comprising logic configured to determine when a call handoff switch from a cellular network to the 802.1x network is to occur and to communicate with a media gateway that causes the media gateway to make appropriate connections to cause the call handoff switch to occur.”

Independent claim 16 recites, “A cellular network comprising: logic configured to perform a call handoff switch from the cellular network to the 802.1x network so that a call being carried on the cellular network can be switched from the cellular network to the 802.1x network.”

Independent claim 17 recites, “A call handoff switching circuit of a media gateway, the switching circuit being in communication with an 802.1x network and with a cellular network, the switching circuit comprising: first logic configured to determine if a call handoff is to occur from an 802.1x network to a cellular network and to determine if a call handoff is to occur from a cellular network to an 802.1x network; and second logic

configured to switch a call connection from an address associated with the 802.1x network to an address associated with the cellular network when the first logic determines that a call handoff is to occur from the 802.1x network to the cellular network, and configured to switch a call connection from an address associated with the cellular network to an address associated with the 802.1x network when the first logic determines that a call handoff is to occur from the cellular network to the 802.1x network.”

Notably, all of the currently pending independent claims relate to handoff control by the cellular network, network server, or media gateway, and not in the handset itself. Notably, all of the passages identified by the Examiner include logic in the mobile device itself, which is clearly not what is being claimed. In fact, the Examiner has taken the erroneous position that “the mobile station is part of the network and as such is a network element.” (Final Office Action of August 27, 2007, page 2). Clearly, the Examiner’s position is not sustainable, as persons skilled in the art do not consider mobile devices to be network elements. Clearly, those skilled in the art understand that the network and handsets are separate things. Additionally, the Examiner has erroneously defined a server as “a computer program that provides services to other computer programs in the same or other computers.” (Final Office Action of August 27, 2007, page 2). Clearly, this is not what Applicant has claimed.

In short, nothing in *Razavilar* discloses, teaches, or suggests the feature of handoff control between networks that use dissimilar transmission elements by a network or network element, as claimed. Accordingly, Applicant respectfully requests that the §102 rejections be withdrawn.

In view of the above, it is clear that an essential element necessary to properly establish a *prima facie* anticipation rejection under §102(e) is lacking, and that an appeal would be a waste of the Office's and the Applicant's resources. Accordingly, reconsideration and withdrawal of the stated ground of rejection is respectfully requested, and favorable indication of allowance is earnestly solicited.

Respectfully submitted,
GARDNER GROFF GREENWALD
& VILLANUEVA, P.C.

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